

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO
2001 MAR 13 A 8:13

MASTER CONSOLIDATED COMPLAINT
(ASBESTOS PERSONAL INJURY, LOSS OF CONSORTIUM)
(TRIAL BY JURY DEMANDED)

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Open
NOA
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chart

Kelley

Robert J Basso
295-50-7852
21560 Willow Lane
Cleveland, OH 44136-1223

38735

CASE NO. 01-432539

JUDGE THROUGL

01-432588

and

John W Bettridge
285-30-8373
P.O. Box 34
Huron, OH 44839-0034

736

CASE NO.

540

JUDGE

and

David L Alvarado
Brenda M. Alvarado
288-32-0302
1410 Eastland Drive
Oregon, OH 43616-

737

CASE NO.

541

JUDGE

and

Jerry R Baker
Lois Baker
332-30-9620
4867 Lake Dawn Drive
Medina, OH 44256-9102

738

A

CASE NO.

542

JUDGE

and

and)

Michael S Adams)

Linda S. Adams)

402-60-9325)

2605 David Street)

Flatwoods, KY 41139-)

739)

A)

CASE NO.)

543)

JUDGE)

and)

Bernard R Allen)

Bette R. Allen)

403-46-2278)

P.O. Box 405)

Corbin, KY 40702-)

740)

A)

CASE NO.)

544)

JUDGE)

and)

James H Bandy)

404-62-4659)

445 Spears Lane)

Stanford, KY 40484-)

741)

CASE NO.)

545)

JUDGE)

and)

John Bankowsky)

Alma M. Bankowsky)

181-18-4331)

430 1/2 Bryan Avenue)

Baden, PA 15005-)

742)

A)

CASE NO.)

546)

JUDGE)

and)

George H Beers)

106-28-8912)

43 Nancy Place)

Cheektowaga, NY 14227-3537)

743)

CASE NO.)

547)

JUDGE)

and)

Grover L Behanna 251-48-0005 401 West Main Street Monongahela, PA 15063-	744	)	CASE NO.	548
and	)	)	JUDGE	
Lloyd E Bennett 406-16-3277 517 Henry Clay Blvd. Lexington, KY 40505-	745	)	CASE NO.	549
and	)	)	JUDGE	
Joe A Berda 090-20-4968 508 Turtle Street Syracuse, NY 13209-	746	)	CASE NO.	550
and	)	)	JUDGE	
Gary R Blum Gretchen S. Blum 293-42-4873 2487 N. Horning Road Shelby, OH 44875-	747	)	CASE NO.	551
and	)	)	JUDGE	
James W Bond Mary Bond 227-07-5677 Route 5, Box 451 Bluefield, WV 24701-	748	)	CASE NO.	552
and	)	)	JUDGE	

Franklin Bonds Chinese Bonds 394-38-8393 2717 Circle Drive Flint, MI 48507-	)	CASE NO.	553
	749)	
	A	)	JUDGE
and)))
Charles L Boone Leona Boone 163-22-5290 127 East Fayette Street Connellsville, PA 15425-	)	CASE NO.	554
	750)	
	A	)	JUDGE
and)))
Donald G Boye 121-18-9385 86 Cayuga Road Cheektowaga, NY 14225-3	)	CASE NO.	555
	751)	
	)	JUDGE)
and)))
Roy B Bragg 233-76-1602 Rt. 1, Box 288 Green Sulpher Springs, WV 25966-	)	CASE NO.	556
	752)	
	)	JUDGE)
and)))
B J Brock 400-48-1023 1380 North Highway Corbin, KY 40701-	)	CASE NO.	557
	753)	
	)	JUDGE)
and)))

John W Brown Sharon A. Brown 129-32-2451 P.O. Box 24 Brasher Falls, NY 13613-)	CASE NO.	
	754)	558
	A)	
)	JUDGE	
))	
and))	
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Michael S Brown Carmella Brown 067-48-0288 28 Phyllis Lane Hastings, NY 13076-)	CASE NO.	
	755)	559
	A)	
)	JUDGE	
))	
and))	
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William C Bruening Verity J. Bruening 274-36-1561 5347 White Road Geneva, OH 44041-)	CASE NO.	
	756)	560
	A)	
)	JUDGE	
))	
and))	
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Frederick J Bryant 129-46-2252 442 Small Road Brasher Falls, NY 13613-)	CASE NO.	
	757	)	561
	)	JUDGE	
))	
and))	
))	
Thomas W Burchill Mary Burchill 132-28-0218 922 Kinne Street E. Syracuse, NY 13057-1731	)	CASE NO.	
	758	)	562
	A)	
	)	JUDGE	
))	
and))	
))	

Morris W Burke 403-38-1264 1005 Summit Road Ashland, KY 41102-	)	CASE NO. 759	)	JUDGE 563
and))))
Robert L Carner 227-28-7948 RR 1, Box 330 Pounding Mill, VA 24637-9716	)	CASE NO. 760	)	JUDGE 564
and))))
Duane R Carter Elvira M. Carter 281-20-5897 2723 Brittany Oaks Blvd. Hilliard, OH 43026-	)	CASE NO. 761 A	)	JUDGE 565
and))))
Carlyle F Chase Virginia E. Chase 052-20-7978 7875 Kneeskern Road, Box 294 Bridgeport, NY 13030-	)	CASE NO. 762 A	)	JUDGE 566
and))))
Alexander Churchin 189-28-5434 3744 Watson Street Baden, PA 15505-	)	CASE NO. 763	)	JUDGE 567
and))))
Hillman Coleman 286-32-3342 1374 West Blvd., Box 211 Cleveland, OH 44102-1778	)	CASE NO. 764	)	JUDGE 568

and

Ken A Courtney
Shirley Courtney
297-30-1369
2066 State Road
Rock Creek, OH 44084-

765
A

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)
)
)
)
)
)
CASE NO.

569

)
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)
JUDGE

and

David N Couser
Tanya A. Couser
271-52-2444
412 South Walnut
Fletcher, OH 45326-

766
A

)
)
)
)
)
CASE NO.

570

)
)
)
)
JUDGE

and

Robert P Couser
Vicky Couser
295-56-9479
3355 Creek Road
St. Paris, OH 43072-

767
A

)
)
)
)
CASE NO.

571

)
)
JUDGE

and

Millard J Crabtree
404-20-0002
4415 Blackwall
S. Charleston, WV 25309-

768

)
)
CASE NO.

572

)
JUDGE

and

Roy C Damron
Leah S. Damron
405-60-1467
Robinson Creek, Box 154
Robinson Creek, KY 41560-

769
A

)
)
CASE NO.

573

)
JUDGE

and)

Thomas L Decker)
Jacquelyne Decker)
050-40-5579)
20 Kent Boulevard)
Salamanca, NY 14779-1411)

770
A

CASE NO.

574

JUDGE

and)

James P DeRose)
276-28-2797)
5158-A Liberty Lane)
Willoughby, OH 44094-3374)

771

CASE NO.

575

JUDGE

and)

Stephen L Diehl)
Wilma J. Diehl)
195-34-5827)
468 Hyndman)
Hyndman, PA 15545-)

772
A

CASE NO.

576

JUDGE

and)

Hershel E Dillon)
M. Larue Dillon)
407-12-1321)
1500 Hedden Road)
Versailles, KY 40383-)

773
A

CASE NO.

577

JUDGE

and)

Kyle J Durocher)
088-50-1436)
141 Mohawk Street, #3)
Cohoes, NY 12047-3014)

774

CASE NO.

578

JUDGE

and)

John R Ewing) CASE NO.
Allela J. Ewing)
232-74-8485)
2731 Mountain View Avenue A) JUDGE
Bluefield, WV 24701-)
)
)
)

and)
)
)

John Fabin) CASE NO.
Mildred Fabin)
195-18-6242)
104 Eagle Pointe Drive A) JUDGE
New Eagle, PA 15067-1447)
)
)
)

and)
)
)

Garnet R Finley) CASE NO.
Kathleen P. Finley)
405-40-6390)
715 North Main A) JUDGE
Nicholsville, KY 40356-)
)
)
)

and)
)
)

John R Ford) CASE NO.
233-78-1097)
RR 1, Box PH40) JUDGE
Hinton, WV 25951-)
)
)

and)
)
)

Garry W Fox) CASE NO.
Genevieve Fox)
400-60-2428)
R 1, Box 448 A) JUDGE
Corbin, KY 40701-)
)
)

and)
)
)

Samuel F Gallimore	)	CASE NO.	
Aileen L. Gallimore)		
282-14-8506)		
2205 Graham Road	)	JUDGE	584
Stow, OH 44224-)		
and)		
Jimmy D Gibson	)	CASE NO.	
Freda L. Gibson)		
403-78-5538)		
699 Turkey Pen Road	)	JUDGE	585
Virgie, KY 41572-)		
and)		
Ralph W Gladden	)	CASE NO.	
235-76-0030)		
102 Race Street	)	JUDGE	586
Ravenswood, WV 26164-)		
and)		
Michael A Greco	)	CASE NO.	
Nancy Greco)		
057-28-4597)		
P.O. Box 207, DeFusto Road	)	JUDGE	587
Eagle Bay, NY 13331-)		
and)		
Charles C Griffey	)	CASE NO.	
Lorena M. Griffey)		
278-24-7401)		
425 Chestnut Place	)	JUDGE	588
Galion, OH 44833-)		
Plaintiffs)		
Vs.)		

A-BEST PRODUCTS COMPANY)
An Ohio Corporation)
c/o Carolyn Cappell)
Weston Hurd Fallon Paisley & Howley)
2500 Terminal Tower)
Cleveland, Ohio 44113)
)
A.P. GREEN INDUSTRIES, INC.)
A Delaware Corporation)
c/o Statutory Agent)
C.T. Corporation System)
1300 East Ninth Street, Suite 1010)
Cleveland, Ohio 44114)
)
PFIZER,, INC.)
c/o Statutory Agent)
C.T. Corporation System)
441 Vine Street, #3810)
Cincinnati, OH 45202)
)
UNITED STATES GYPSUM COMPANY)
A Delaware Corporation)
c/o C.T. Corporation System)
Statutory Agent)
441 Vine Street, #3810)
Cincinnati, OH 45202)
)
TURNER & NEWALL, PLC.)
P.O. Box 20)
Ashburton Road, West)
Trafford Park)
Manchester, England M17-1RA)
)
FOSTER WHEELER ENERGY)
CORPORATION)
A Delaware Corporation)
c/o U. S. Company)
Statutory Agent)
16 E. Broad Street)
Columbus, Ohio 43215)
)
HARBISON WALKER REFRACTORIES,)
INC.)
USX Steel Building)
600 Grant Street)
Pittsburgh, PA 15219)

)
DRESSER INDUSTRIES, INC.)
Successor to Harbison Walker)
Refractories Co.)
c/o Statutory Agent)
CSC-Lawyers Inc., Svc.)
16 E. Broad Street)
Columbus, Ohio 43215)
)
METROPOLITAN LIFE INSURANCE)
COMPANY a/k/a METROPOLITAN)
INSURANCE COMPANY)
One Madison Avenue)
New York, NY 10010-3690)
)
WESTINGHOUSE ELECTRIC)
CORPORATION)
A Pennsylvania Corporation)
c/o C. T. Corporation System)
1300 East Ninth Street, Suite 1010)
Cleveland, Ohio 44114)
)
RAPID-AMERICAN CORP.)
in its own right and as successor in interest)
to and liable for Philip Carey Corporation)
c/o C.T. Corporation System, S.A.)
111 8th Avenue, 13th Floor)
New York, NY 10011)
)
AMERICAN OPTICAL CORPORATION)
c/o C. T. Corporation System, S.A.)
2 Oliver Street)
Boston, MA 02109)
)
A.P. GREEN SERVICE, INC./BIGELOW)
LIPTAK)
Green Boulevard)
Mexico, MO 65265)
)
PNEUMO ABEX CORPORATION,)
Successor in interest to Abex Corporation)
American Brake Shoe Company and)
American Brake Block)
c/o Prentice Hall Corp.)
50 East Broad Street)
Columbus, OH 43215)

)
ABB POWER T&D COMPANY, INC.)
a/k/a BBC BROWN BOVERI, INC.)
A Delaware Corporation)
c/o C.T. Corporation System)
1300 East Ninth Street, Suite 1010)
Cleveland, OH 44114)
)
BEAZER EAST, INC. (fka Koppers))
A Delaware Corporation)
c/o C.T. Corporation System)
1300 East Ninth Street #1010)
Cleveland, OH 44114)
)
AMERICAN STANDARD, INC.)
Successor in Interest to Westinghouse Air)
Brake Co.)
A Delaware Corporation)
c/o C.T. Corporation System)
3810 Carew Tower)
Cincinnati, OH 45202)
)
EATON CORPORATION)
Successor in interest to Cutler-Hammer, Inc.)
An Ohio Corporation)
1111 Superior Avenue, S.E.)
Cleveland, OH 44114)
)
ERICSSON, INC.)
a/k/a Ericsson Radio Systems, Inc.)
Successor in interest to Continental Wire &)
Cable Company and Anaconda Wire & Cable)
Company)
A Delaware Corporation)
730 International Parkway)
Richardson, TX 75081)
)
G.W. BERKHEIMER)
1920 South State Avenue)
Indianapolis, IN 46203)
)
GENERAL MOTORS CORPORATION)
A Delaware Corporation)
c/o C.T. Corporation System)
1300 East Ninth Street, Suite 1010)
Cleveland, OH 44114)

GERBER PLUMBING FIXTURES)
CORPORATION)
A Division of Globe Valve)
An Indiana Corporation)
North Washington Street)
Delphi, IN 49623)
)
GOULD, INC.)
A Delaware Corporation)
c/o C.T. Corporation System)
1635 Market Street, Suite 1120)
Philadelphia, PA 19103)
)
GREEN, TWEED & COMPANY)
A Pennsylvania Corporation)
Detweiler Road)
Kulpsville, PA 19443)
)
GRIFFIN WHEEL CO.)
Division of Amsted Industries)
A Delaware Corporation)
c/o C.T. Corporation System)
1300 East Ninth Street, Suite 1010)
Cleveland, OH 44114)
)
KERITE COMPANY)
A Connecticut Corporation)
49 Day Street)
Seymour, CT 06483)
)
LEXINGTON PRECISION CORPORATION)
f/k/a Blasuius Industries, Inc.)
A Delaware Corporation)
c/o C. T. Corporation System)
1300 East Ninth Street, Suite 1010)
Cleveland, OH 44114)
)
MELRATH GASKET, INC.)
In its own right and as successor in interest)
to Melrath Gasket Company, Tannetics)
and TNT Liquidating)
A Pennsylvania Corporation)
2901 West Hunting Park Avenue)
P.O. Box 43099)
Philadelphia, PA 19129-3099)

MOBIL OIL CORPORATION)
c/o John F. Tully)
Exxon/Mobile Corp.)
Room 1729 D)
800 Bell Street)
Houston, TX 77002)
)
McCORD GASKET COMPANY)
c/o C.T. Corporation System)
1300 East Ninth Street #1010)
Cleveland, OH 44114)
)
NEW YORK AIR BRAKE CORPORATION)
A Delaware Corporation)
c/o C. T. Corporation System)
Carew Tower)
Cincinnati, OH 45202)
)
NIBCO, INC.)
An Indiana Corporation)
c/o C.T. Corporation System)
1300 East Ninth Street, Suite 1010)
Cleveland, OH 44114)
)
PARS MANUFACTURING COMPANY)
A Pennsylvania Corporation)
101 South Main Street)
Ambler, PA 19002)
)
PLASLOK CORPORATION)
A New York Corporation)
3155 Broadway)
Buffalo, NY 14227)
)
RAILROAD FRICTION PRODUCTS)
CORPORATION)
c/o C.T. Corporation)
225 Hillsborough Street)
Raleigh, NC 27603)
)

SB DECKING, INC.)
fka Selby, Battersy & Co.)
c/o Hecker, Brown, Sherry and Johnson)
1700 Two Logan Square)
18th and Arch Streets)
Philadelphia, PA 19103-2769)
)
SEPCO CORPORATION)
A California Corporation)
29822 Ivy Glenn)
Laguna Beach, CA 92656)
)
PLIBRICO COMPANY)
c/o Prentice Hall Corp. System)
50 E. Broad Street)
Columbus, OH 43215)
)
BUDD COMPANY and its division)
Continental-Diamond Fibre Co.)
A Pennsylvania Corporation)
One Red Lion Road)
Philadelphia, PA 19115)
)
UNIROYAL, INC.)
A New Jersey Corporation)
c/o Prentice Hall Corporation System)
50 E. Broad Street)
Columbus, OH 43215)
)
FEDERAL-MOGUL CORPORATION)
formerly d/b/a Vellumoid, Inc.)
c/o C.T. Corporation System)
1300 East Ninth Street, Suite 1010)
Cleveland, OH 44114)
)
ESSEX WIRE CORPORATION)
IWI Division)
A Michigan Corporation)
1601 Wall Street)
Fort Wayne, IN 46804)
)

WORTHINGTON CORPORATION)
Successor in interest to Studebaker-)
Worthington, Inc.)
c/o James W. Ferguson)
Halliburton Company)
4100 Clinton Drive)
Building 01-631)
Houston, TX 77020)
)
NOSROC CORPORATION)
A subsidiary of IU/International Corporation)
c/o C.T. Corporation System)
1635 Market Street)
Philadelphia, PA 19103)
)
USX CORPORATION, and its division)
American Steel & Wire Co.)
a/k/a Americable Div.)
c/o Prentice-Hall Corp. System)
50 E. Broad Street)
Columbus, OH 43215)
)
ALLIED GLOVE CORPORATION)
P.O. Box 2126)
Milwaukee, WI 53201)
)
OWENS-ILLINOIS)
c/o C.T. Corporation Systems, S.A.)
1300 East Ninth Street, Suite 1010)
Cleveland, Ohio 44114)
)
W. R. GRACE & COMPANY-CONN)
c/o Prentice Hall Corp. System)
Statutory Agent)
50 E. Broad Street)
Columbus, Ohio 43215)
)
GENERAL ELECTRIC CORPORATION)
In its own right and as successor to)
Alco Locomotive)
A Foreign Corporation)
c/o Statutory Agent)
C.T. Corporation System)
1300 East Ninth Street, Suite 1010)
Cleveland, Ohio 44114)
)

A.W. CHESTERTON, INC.)
A Massachusetts Corporation)
Middlesex Industrial Park)
Stoneham, MA 02180)
)
ACF INDUSTRIES, INCORPORATED)
c/o CSC Lawyers Incorporating Service)
50 East Broad Street)
Columbus, Ohio 43215)
)
BLH, INC.)
fka Baldwin-Lima-Hamilton Corporation)
The Corporation Trust Co.)
Corporation Trust Center)
1209 Orange Street)
Wilmington, DE 19801)
)
VAPOR CORPORATION)
c/o C. T. Corporation System)
1636 Market Street)
Philadelphia, PA 19103)
)
VIAD CORPORATION)
c/o C.T. Corporation System)
1300 East Ninth Street, Suite 1010)
Cleveland, Ohio 44114)
)
PULLMAN STANDARD, INC.)
c/o The Prentice-Hall Corp. System, Inc.)
100 Pine Street)
Harrisburg, PA 17108)
)
NORTH AMERICAN REFRactories CO.)
An Ohio Corporation)
c/o C. T. Corporation System)
1300 East Ninth Street, Suite 1010)
Cleveland, Ohio 44115)
)
THE GOODYEAR TIRE & RUBBER CO.)
c/o C.T. Corporation System)
3350 N. St. Paul Street)
Dallas, TX 75201)
)

FERODA AMERICA, INC.)
C/o C.T. Corporation System, S.A.)
1300 East Ninth Street, #1010)
Cleveland, Ohio 44114)
)
AMCHEM PRODUCTS, INC.)
C/o C.T. Corporation System, S.A.)
1300 East Ninth Street, #1010)
Cleveland, Ohio 44114)
)
C.E. THURSTON AND SONS, INC.)
C/o C.T. Corporation System, S.A.)
1300 East Ninth Street, #1010)
Cleveland, Ohio 44114)
)
CERTAINTEED CORPORATION)
C/o C.T. Corporation System, S.A.)
1300 East Ninth Street, #1010)
Cleveland, Ohio 44114)
)
NATIONAL SERVICE INDUSTRIES, INC.)
C/o C.T. Corporation System, S.A.)
1300 East Ninth Street, #1010)
Cleveland, Ohio 44114)
)
SHOOK & FLETCHER INSULATION CO.)
C/o C.T. Corporation System, S.A.)
1300 East Ninth Street, #1010)
Cleveland, Ohio 44114)
)
UNION CARBID CORPORATION)
C/o C.T. Corporation System, S.A.)
1300 East Ninth Street, #1010)
Cleveland, Ohio 44114)
)
DANA CORPORATION)
4500 Dorr Street)
Toledo, Ohio 43615)
)

QUIGLEY COMPANY, INC.)
235 East 42nd Street)
New York, NY 10017)
)
I.U. NORTH AMERICA, INC.)
Address Unknown)
)
ACANDS, INC.)
120 North Lime Street)
Lancaster, PA 17608-1548)
)
C.P. HALL COMPANY)
C/o C.T. Corporation System, S.A.)
1300 East Ninth Street, #1010)
Cleveland, Ohio 44114)
)
CROWN CORK & SEAL)
C/o C.T. Corporation System, S.A.)
1300 East Ninth Street, #1010)
Cleveland, Ohio 44114)
)
RED SEAL ELECTRIC)
3835 W. 150th Street)
Cleveland, Ohio 44111)
)
JOHN DOES 1-100)
Manufacturers, Sellers or)
Installers of Asbestos-Containing)
Products)
)
Defendants)

COUNT ONE

1. Plaintiffs worked at sites in and around Ohio as previously stated in the caption.
2. Defendants, excluding Metropolitan Life, all times relevant and pertinent hereto, were engaged in the business of mining, milling, manufacturing, fabricating, designing, formulating, producing, creating, making, constructing, assembling and/or rebuilding asbestos-containing products or components thereof; and/or selling, distributing, preparing, blending, packaging, labeling and/or otherwise participated in placing asbestos-containing products in the

stream of commerce to which plaintiff was exposed during his employment.

3. The real names and addresses of defendants John Does 1-100 manufacturers, sellers or installers of asbestos-containing products have not been determined, despite reasonable efforts of the plaintiffs to do so.

4. Defendants, acting through their servants, employees, agents and representatives, caused asbestos and asbestos-containing materials to be placed in the stream of interstate commerce.

5. During the course of plaintiffs' employment, they had been exposed to the defendant's asbestos and asbestos-containing materials, by virtue of installation and tear-out work, which exposure directly and proximately caused him to develop asbestos-related disease and to suffer other injury, including a greatly increased risk of developing mesothelioma, bronchogenic carcinoma, or other cancerous condition. Further, this increased cancer risk has caused plaintiffs to endure great mental anguish and will continue to cause such anguish in the future.

6. The illness and disability of the plaintiffs is the direct and proximate result of the negligence of the defendants in that they produced, sold or otherwise put into the stream of interstate commerce, asbestos and asbestos-containing materials, which the defendants knew or in the exercise of ordinary care, ought to have known were deleterious, poisonous, and highly harmful to plaintiffs' health.

7. The illness and disability of the plaintiffs is the direct and proximate result of the negligence of the defendants in that even though the defendants knew or in the exercise of ordinary care, ought to have known that their asbestos and asbestos-containing materials were

deleterious, poisonous and highly harmful to plaintiffs' health, and that he would not know of such dangers to his health, the defendants nonetheless:

- (a) Failed to advise plaintiffs of the dangerous characteristics of their asbestos and asbestos-containing products;
- (b) Failed or omitted to provide plaintiffs with the knowledge as to what would be reasonably safe and sufficient wearing apparel and proper protective equipment and appliances, if in truth there were any to protect him from being poisoned and disabled as he was, by exposure to such deleterious and harmful asbestos and asbestos-containing materials;
- (c) Failed and omitted to place any warnings on their containers of said asbestos and asbestos-containing materials to warn the handlers thereof of the dangers to health in coming into contact with said asbestos and asbestos-containing materials;
- (d) Failed and omitted to take reasonable precautions or exercise reasonable care to publish, adopt and enforce a safety plan and a safe method of handling and installing said asbestos and asbestos-containing materials.

8. The defendants impliedly warranted that said asbestos and asbestos-containing materials were of good and merchantable quality and fit for the intended use.

9. Plaintiffs were working in close proximity to the asbestos and asbestos-containing materials of the defendants, and his presence was known, or ought to have reasonably been anticipated by the defendants.

10. The implied warranty made by the defendants that their asbestos and asbestos-containing materials were of good and merchantable quality and fit for their particular intended use was breached in that certain harmful, poisonous and deleterious matter was given off into the atmosphere where plaintiffs carried out their duties working in and around asbestos and asbestos-containing materials.

11. As a direct and proximate result of the breach of the implied warranty of good and merchantable quality and fitness for the particular intended use, plaintiffs developed an asbestos-related disease.

12. The defendants manufactured and sold products which were defective at the time they left the control of the defendants, and which proximately caused the illness of plaintiffs, whom defendants knew or should have known would be exposed to their products.

13. Defendants violated the requirements of §402(A) of the Restatement of Torts, 2d, as adopted by the Supreme Court of the State of Ohio, all of which proximately resulted in the illness of the plaintiffs.

14. As a direct and proximate result of the acts and omissions complained of above, plaintiff has experienced great pain and suffering of mind and body, and will endure future pain and suffering of mind and body.

ial by jury is hereby demanded to determine all issues.

ove,

KELLEY & FERRARO, LLP

yet

By:

Anthony Gallucci

ove,

MICHAEL V. KELLEY (0002679)

JOHN A. SIVINSKI (0036712)

ANTHONY GALLUCCI (0066665)

1300 East Ninth Street

1901 Bond Court Building

Cleveland, Ohio 44114

(216) 575-0777

ritten

Counsel for Plaintiffs

By:

Michael H. Doran / AER

dants,

MICHAEL H. DORAN (0067509)

Doran & Murphy LLP

1234 Delaware Avenue

Buffalo, NY 14209

(716) 884-2000

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COUNT THREE

20. Plaintiffs herein reallege paragraphs 1 through 19 above as though fully rewritten herein.

21. Defendants, collectively and individually, manufactured, designed, selected, assembled, inspected, tested, maintained for sale, marketed, distributed, sold, supplied, delivered, and promoted asbestos-containing products which were generically similar and fungible in nature; and placed such material into the stream of interstate commerce.

22. Plaintiffs, through no fault of their own, may not be able to identify all of the asbestos-containing products or their manufacturers, marketers, sellers, distributors, or promoters due to the generic similarity and fungible nature of such products as produced and promoted by these defendants.

23. As a direct and proximate result of the defendants' activities, plaintiffs were exposed to asbestos-containing material and sustained the injuries and damages described above.

24. Defendants are jointly and severally liable to the plaintiffs for the injuries and damages sustained by plaintiffs, described above, by virtue of industry-wide liability, or enterprise liability.

25. (a) Alternatively, defendants represent a substantial share of the asbestos-containing product market where plaintiffs worked and were exposed to asbestos.

(b) Defendants manufactured, designed, selected, assembled, marketed, distributed, sold, supplied, delivered, and promoted asbestos-containing products of the kind and

nature to which plaintiffs was exposed during the period of his employment.

26. Defendants are severally liable to the plaintiffs based upon their pro-rata market share within the market described herein.

COUNT FOUR

27. Plaintiffs herein reallege paragraphs 1 through 26 above as though fully rewritten herein.

28. Plaintiffs have suffered a loss of consortium and have been deprived of the society, companionship, and assistance of their husbands.

COUNT FIVE

29. Plaintiffs herein reallege paragraphs 1 through 34 above as though fully rewritten herein.

30. In or about the year 1930, and at various times prior and subsequent thereto, up to and including the present time, defendant Metropolitan Life Insurance Company undertook and assumed a duty to provide the asbestos industry, the scientific community and company users of asbestos with information, inspections, instructions, supervision, recommendations, assistance, notices, reports, methods, findings, cautions, warnings, advice, designs, equipment, safeguards, guidance and services to properly, adequately and reasonably provide safe working conditions, all allegedly to preserve and protect the life, health and safety of employees exposed to asbestos, including plaintiffs and their co-workers, and particularly to protect them from the dangerous and defective properties of asbestos, asbestos products and compounds and/or other dangerous substances at or about the workplace.

31. Plaintiffs aver that various employers and their employees, including plaintiffs

and scientists and others similarly situated, were dependent upon the undertakings of the Defendant Metropolitan to preserve and protect the life, health and safety of employees at all times from the commencement of the said relationship between the asbestos industry and Defendant Metropolitan.

32. Defendant Metropolitan, by its active and passive negligence, failed to exercise by reason of its aforesaid undertakings and assumption of duty, thereby causing, creating or permitting dangerous conditions and exposure to dangerous and defective substances; and thereby failing to properly safeguard plaintiff and all others similarly situated.

33. As a result of the aforesaid negligence of the defendant Metropolitan, plaintiffs were injured.

WHEREFORE, plaintiffs demands judgment against the defendants jointly and severally in excess of Twenty-Five Thousand Dollars (\$25,000.00) and an amount for punitive damages, costs and attorney's fees and expenses in this action.

A trial by jury is hereby demanded to determine all issues.

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